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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,085	07/20/2001	Kenneth B. Higgins	5113A	2412
25280	7590	04/02/2008		
Legal Department (M-495) P.O. Box 1926 Spartanburg, SC 29304			EXAMINER JUSKA, CHERYL ANN	
			ART UNIT 1794	PAPER NUMBER
			MAIL DATE 04/02/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

09/910,085

## Applicant(s)

HIGGINS ET AL.

## Examiner

Cheryl Juska

## Art Unit

1794

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 4-50, 54, 58-85, 89-100, 103-106, 109-112, 114, 119, 122 and 143-145 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4-50, 54, 58-85, 89-100, 103-106, 109-112, 114, 119, 122 and 143-145 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Final Drawing (PTO-846)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 09/07
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination (RCE) under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 11, 2008, has been entered.

### ***Response to Amendment***

2. The amendment filed with the RCE has been entered. Claims 1, 30-39, and 50 have been amended as requested. Claims 2, 3, 51-53, 55-57, 86-88, 101, 102, 107, 108, 113, 115-118, 120, 121, 123-142 have been cancelled. Thus, the pending claims are 1, 4-50, 54, 58-85, 89-100, 103-106, 109-112, 114, 119, 122, 143-145.

### ***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 4, 7-17, 19-42, 44-50, 51, 54, 58-60, 62-67, 69-73, 75-85, 89-100, 103-106, 109-112, 114, 119, 122, and 143-145 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,522,857 issued to HIGGINS in view of 5,610,207 issued to DE

SIMONE et al. and in further view of US 5,540,968 issued to HIGGINS as set forth in section 2 of the last Office Action (Final Rejection mailed 05/11/07).

Applicant has amended independent claims 1 and 50 with the subject matter of newly cancelled claims 3 and 51, respectively. However, since claims 3 and 51 were previously rejected under 103 in section 2 of the last Office Action, the rejection stands for the reasons of record despite applicant's amendment. Note independent claims 41 and 58 have not been amended.

5. Claims 5, 6, 18, and 43 stand rejected under 35 U.S.C. 103(a) as being unpatentable over both of the cited HIGGINS patents and the DE SIMONE patent as set forth above, and in further view of EP 048 986 issued to DOW for the reasons of record.

6. Claims 61, 68, and 74 stand rejected under 35 U.S.C. 103(a) as being unpatentable over both of the cited HIGGINS patents and the DE SIMONE patent as set forth above, and in further view of US 5,616,200 issued to HAMILTON for the reasons of record.

#### ***Response to Arguments***

7. Applicant's arguments filed with the amendment on 02/11/08 have been fully considered but they are not persuasive. Specifically, applicant has not provided any substantially new arguments with respect to the standing rejections. It is maintained that the combination of cited prior art, Higgins '857, Higgins '968, and DeSimone, teaches the features of applicant's claims and the above rejection is not based upon improper hindsight. For full explanation, see examiner's arguments presented in previous Office Actions.

*Conclusion*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached at 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*/Cheryl Juska/*  
Primary Examiner  
Art Unit 1794